

SUMMARY REPORT OF INVESTIGATION**I. EXECUTIVE SUMMARY**

Date of Incident:	November 7, 2017
Time of Incident:	11:00 AM
Location of Incident:	XXXX South Eggleston Avenue
Date of COPA Notification:	November 13, 2017
Time of COPA Notification:	11:17 AM

On November 7, 2017, Officers A, Star # XXXXX, and B, Star # XXXXX, went to the home of Subject 1 at XXXX South Eggleston Avenue to investigate her involvement in an incident involving the discharge of a firearm. Subject 1 was home but did not respond to officers knocking at her door. Subject 1's vehicle was towed from outside of her home by police officers. Subject 1 later turned herself in at the 4th District with her lawyer on November 8, 2017. Subject 1 alleges that her car was improperly towed.

II. INVOLVED PARTIES

Involved Officer #1:	Officer A, Star # XXXXX, Employee ID # XXXXX, Date of Appointment XX/XX/2002, Police Officer DOB XX/XX/1974, male, white
Involved Officer #2:	Officer B, Star # XXXXX, Employee ID # XXXXX, Date of Appointment XX/XX/2004, Police Officer DOB XX/XX/1976, male, white
Involved Officer #3:	Sergeant A, Star # XXXX, Employee ID # XXXXX, Date of Appointment XX/XX/1997, Sergeant of Police, DOB XX/XX/1970, male, white
Subject #1:	Subject 1, DOB XX/XX/1979, femal, black

III. ALLEGATIONS

Officer	Allegation	Finding
Officer B	1. It is alleged that Officer B improperly towed Subject 1's vehicle without justification in violation of Rule's 3 and 11.	Exonerated

	2. It is alleged that Officer B improperly searched Subject 1's vehicle without justification in violation of Rule's 2, 3, 10, and 11.	Not Sustained
Officer A	1. It is alleged that Officer A improperly towed Subject 1's vehicle without justification in violation of Rule's 3 and 11.	Exonerated
	2. It is alleged that Officer A improperly searched Subject 1's vehicle without justification in violation of Rule's 2, 3, 10, and 11.	Not Sustained
Sergeant A	1. It is alleged that Sergeant A improperly towed Subject 1's vehicle without justification in violation of Rule's 3 and 11.	Exonerated
	2. It is alleged that Sergeant A improperly searched Subject 1's vehicle without justification in violation of Rule's 2, 3, 10, and 11.	Not Sustained
	3. It is alleged that Sergeant A said, "bitch open the door" when knocking on Subject 1's door in violation of Rules 2 and 3.	Exonerated

IV. APPLICABLE RULES AND LAWS

Rules

Rule 2 – Any act or conduct which impedes the department's efforts to achieve its policy and goals or brings discredit upon the department.

Rule 3 - Any failure to promote the Department's efforts to implement its policy or accomplish its goals.

Rule 10 - Inattention to duty.

Rule 11 - Incompetency or inefficiency in the performance of duty.

General Orders

G07-03 - Vehicle Towing and Relocation Operations

Special Orders

S07-03-06 - Seizure and Forfeiture of Vehicles, Vessels, and Aircraft

V. INVESTIGATION¹

a. Interviews

On November 14, 2017, complainant Subject 1, reported to the Civilian Office of Police Accountability for an in-person statement. Subject 1 reported on November 7, 2017, she woke up to her house being surrounded by police and the police beating on her door. Subject 1 related the “biggest” Officer, now known to be Sergeant A, was screaming “bitch, open the door.” Subject 1 reported she made several calls to friends and neighbors who related to her that police had her house surrounded. Subject 1 also related that she called a lawyer during this time. Subject 1 reported she went upstairs to her room and would not open the door. Subject 1 said she was on the phone with her neighbors who were watching the incident and her neighbors then related that the police surrounded her car. Subject 1 said that her neighbor related that the police had opened her driver’s side door with a “slim-Jim.” Subject 1 related her car was “dragged” down the street. Subject 1 said the police had no legal right to search or tow her car. Subject 1 related that after approximately an hour, the police left. Subject 1 related that she did not answer the door “because she didn’t kill anybody.”

Subject 1 explained that the police towed her car in relation to an incident that happened on October 29, 2017. Subject 1 said she was at a bar called XXX XXXXXX XXXX, and got into a verbal altercation with a woman named Subject 2. Subject 1 stated that Subject 2 was ejected by security due to the altercation. Subject 1 related that she left the club approximately an hour later and ran into Subject 2 at Subject 1’s vehicle where an “incident” occurred. Subject 1 reported she was unwilling to discuss the incident because she wants to “use it as a defense” when she goes to court. Subject 1 then related that she went back to XXX XXXXXX XXXX the following Friday November 3, 2017, and one of her friends reported to her that the police were looking for her. Subject 1 said that her friend also said that Subject 2 had been telling everyone that Subject 1 had chased her with a gun on the night of October 29, 2017. Subject 1 related that she was surprised by this because “that type of behavior isn’t in her character.”²

On January 4, 2018, the witness Detective A, Star # XXXXX, reported to the Civilian Office of Police Accountability for an in-person statement. Detective A related that he was assigned to the case involving a complaint filed by Subject 2. Detective A stated that Subject 2 alleged that on October 29, 2017, an argument between Subject 2 and complainant Subject 1 occurred outside of a bar on Stony Island. Detective A said that during the argument, Subject 1 reportedly reached into her car and pulled out a gun, pointed the gun at Subject 2, and fired a shot. Detective A stated it was unclear whether the shot was fired at Subject 2 or if Subject 1 had initially pointed the gun at Subject 2 and then fired the shot into the air. Detective A related that an unidentified police Officer interviewed Subject 2 at the scene and made a report of an aggravated assault and the case was assigned to Detective B Star # XXXXX for follow-up. Detective A stated that Detective B conducted multiple supplemental interviews with Subject 2 and reached out to Subject 1 to have Subject 1 turn herself in, however Subject 1 did not comply.

¹ COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

² Attachment (“Att.”). # 5

Detective A stated that the case was then sent to Area South Detectives and several officers from the 4th District Tactical Team then went to Subject 1's house to investigate the crime of "aggravated assault with a weapon and being fired at" on November 7, 2017. Detective A stated the officers were unable to find Subject 1 but they found her vehicle and subsequently towed her vehicle. Detective A stated that the officers did not have a search or an arrest warrant as they had not attempted to get either. Detective A related there were no warrants for Subject 1 because the State's Attorney's Office wants officers to take every reasonable step to find the subject or to have the subject turn themselves in. Detective A related if the subject "secludes themselves," and officers are unable to find them, the State's Attorney's will then offer a search warrant.

Detective A said that Subject 1, accompanied by her lawyer, turned herself in on November 8, 2017, to the 4th District. Detective A related that "because the vehicle was used in the commission of a crime as a means of escape," Chicago Police Department is authorized to tow the vehicle. Detective A stated he did not speak to Subject 2 until after Subject 1 turned herself in, at which time he related it was undetermined if the shot was fired at Subject 2 or if Subject 1 had initially pointed the gun at Subject 2 and then fired the shot into the air.

Detective A stated this case was never presented to the State's Attorney's Office for felony review because "this was a one on one, no witnesses were found, and there was no video on the scene." Detective A related that the weapon was never recovered and no search warrant was ever garnered to search Subject 1's house because officers had no reason to believe the weapon was in her house. Detective A said the car was never searched because the officers did not have the keys or a search warrant. Detective A also related that "through his experience" since the officers had no one saying the weapon would be in the vehicle, the State's Attorney's Office would not give officers a search warrant. Detective A related that once Subject 1 was in custody, officers filled out paperwork to have her car released. Subject 1 was released from jail on November 9, 2017, and Detective A was unsure when she got her car back.³

On March 7, 2018, the accused Officer B, Star #XXXXXX, reported to the Civilian Office of Police Accountability for an in-person statement. Officer B said on November 7, 2017, he, Officer A and Officer C, as well as two ATF agents, A and B went to Subject 1's house at XXXX South Eggleston Avenue. Officer B related that the officers were investigating a "shots fired" complaint and were provided Subject 1's name, address, plate number and make and model of her vehicle. Officer B related that the victim said the vehicle was used in the commission of a crime. Officer B reported his understanding of the incident was that there was a verbal altercation at a bar on Stony Island which escalated to shots being fired in the direction of the victim, Subject 2. Officer B stated that the victim stated that Subject 1 pulled a pink pistol from the passenger area of her car and fired one shot. Officer B related that he was on furlough when the initial investigation was conducted by the initiating Detective A.

Officer B related that when the officers went to Subject 1's home; the case was pending felony review. Officer B related that officers tried to make contact with Subject 1 prior to the date the vehicle was towed, but officers were unable to make contact. Officer B related the officers did not have an arrest warrant or a search warrant for Subject 1's vehicle. Officer B related they towed

³ Att. # 16

the car per General Orders that the vehicle was used in the commission of a crime, aggravated assault or aggravated discharge of a firearm, and was to be held for investigation. Officer B related he is not familiar with state seizure statutes or MCC violations that would allow him to tow a vehicle without a warrant. Officer B related that he does not know why there was no search warrant for the vehicle. Officer B related that he towed the vehicle because it was used in the commission of a crime and had evidentiary value to the investigation and therefore could be towed and held for investigation. Officer B related this direction is from General Order 07-03: Tow Procedures. Officer B related that after seeing the vehicle at Subject 1's house, he contacted Sergeant A who then approved the towing of the vehicle. Officer B related that Sergeant A told him that the case may be upgraded to a felony. With regard to whether Sergeant A called Subject 1 a "bitch", Officer B related Sergeant A was not on scene. Officer B stated that he did not know why felony charges were not approved. Officer B then filled out the tow report and the vehicle was towed and held until the next day when Subject 1 turned herself in the following day at the 4th District.⁴

On March 7, 2018, the accused Officer A Star #XXXXXX, reported to the Civilian Office of Police Accountability for an in-person statement. Officer A related that he and fellow Officers B, C, and two ATF agents, A and B, went to the home of Subject 1 twice on November 7, 2017. The second time the officers went to Subject 1's address at XXXX South Eggleston Avenue, they Officer A stated that he observed Subject 1's vehicle at the address and knocked on the door for some time, to no avail.

Officer A related that his understanding of the incident the officers were investigating was that Subject 2 and Subject 1 got into a verbal altercation in a bar on Stony Island. He further stated that the argument continued outside where Subject 1 allegedly reached inside her car, pulled out a pink handgun and fired one or two rounds in the direction of Subject 2.

Officer A related that Sergeant A approved the towing of Subject 1's vehicle. Officer A related that the reason they towed the vehicle is due to General Order 07-03: Tow Procedures. Officer A related that the vehicle was used in an aggravated assault with a handgun and that crime is a towable offense. Officer A related the officers had the make, model, and license plate of the vehicle and found that vehicle parked in Subject 1's driveway and towed it to hold it for investigation, per GO 07-03. Officer A related that he is unfamiliar with state statutes that would allow officers to tow a vehicle. Officer A related that the MCC statutes were not applicable in this instance.⁵

On March 12, 2018, the accused Sergeant A, Star #XXXX, reported to the Civilian Office of Police Accountability for an in-person statement. Sergeant A related he was the supervising sergeant relative to this incident. Sergeant A related he was never at the scene of the incident and did not call Subject 1 a "bitch" at any time. Sergeant A related that the officers who went to XXXX S. Eggleston Ave., Subject 1's address, were investigating a possible felony "shots fired" incident at the time they towed the car. Sergeant A said the victim was Subject 2 but Sergeant A did not speak to her. Sergeant A related he had second-hand knowledge of the "shots fired" incident where

⁴ Att. 20

⁵ Att. 22

Subject 1 allegedly fired shots either at Subject 2 or in the general vicinity of Subject 2. Sergeant A related he knew the fight between Subject 2 was ongoing.

Sergeant A related he did not attempt to get a search warrant or arrest warrant. Sergeant A related the vehicle was towed because it was used in the commission of a crime and was held due to possible ballistic or other evidentiary value it possessed. Sergeant A said Subject 2 was very specific in that two shots were fired in her direction, however, only one shell casing was found. Sergeant A related that CPD General Order 07-03 Tow Procedures allowed Subject 1's vehicle to be towed pursuant to the investigation of criminal activity and the vehicle could be held until the completion of the investigation. Sergeant A related the officers had the color, make, model, and tag number of the vehicle used in the crime, as well as a detailed description of how the vehicle was used in the commission of the crime. Sergeant A further stated the vehicle was never searched while it was impounded. Sergeant A related Subject 1 turned herself in to the 4th District the following day with her attorney. Sergeant A also related that CPD Special Order S07-03-06 subsection four, section b, states that, "when a person discharges a firearm with the intent to cause death or great bodily harm, the vehicle shall be subject to seizure and/or forfeiture."⁶

b. Documentary Evidence

The Incident Report, RD# XXXXXXXX, reports that on October 29, 2017, at approximately 10:37 PM, at XXXX South Stony Island, an aggravated assault with a handgun occurred. The victim is reported as Subject 2 of XXX North Wood Street. The suspect is reported as Subject 1 of XXXX South Eggleston Avenue. The property recovered was one spent shell casing from a 9 mm Luger. The narrative reports that officers were dispatched to a "shots fired" call at XXXX South Stony Island and were flagged down by Subject 2. It further reports that Subject 2 relayed that she and Subject 1 got into an altercation. It states that Subject 1 than displayed a pink handgun from inside her black Camaro bearing a license plate of XXXXXX and discharged two shots into the air placing Subject 2 in fear of her life. The report states that Subject 2 refused medical attention, and one spent shell casing was recovered.⁷

The Arrest Report, RD# XXXXXXXX, reports Subject 1 of XXXX South Eggleston Avenue, was arrested and charged with Aggravated Assault with a Deadly Weapon on November 8, 2017. The victim is reported at Subject 2 of XXX North Wood Street. The narrative reports that Subject 2 related on October 29, 2017, Subject 1 pointed a shot a pink handgun at Subject 2. It further states that police then made contact with Subject 1 and her lawyer via telephone, after which Subject 1 turned herself in at the 4th District Station in the presence of her lawyer. Detective A advised officers that no felony charges were being pursued at the time of arrest.⁸

The Detective Supplemental Report, RD# XXXXXXXX, reports the victim as Subject 2 of XXX North Wood Street. The suspect is reported as Subject 1 of XXXX South Eggleston Avenue and that the incident occurred on October 29, 2017, at approximately 10:37 PM, at XXXX South Stony Island. The incident is classified as an aggravated assault with a handgun occurred. The investigation narrative reports the offender recovered the weapon from and fled the scene in

⁶ Att. #24

⁷ Att. #18

⁸ Att. # 6

a blue 2012 Camaro, tag XXXXXXXX. The report further states that Officers B and A went to the home of Subject 1 to make contact. The report states that after several minutes of knocking and no results, and because the vehicle parked in the driveway was used in the commission of a crime, the officers had the vehicle towed for further investigation. On November 8, 2017, Subject 1 turned herself in with her lawyer, Attorney A, at the 4th District and Subject 1 would not consent to an interview. After reviewing the interviews of victim, Subject 2, and due the lack of video evidence, the report states that it was determined that Subject 1 would be charged with one count of Aggravated Assault/Deadly Weapon and processed accordingly. Per the report, the impounded vehicle was then released from impound.

The narrative also includes a summary of the interview with the victim Subject 2 from October 31, 2017. In pertinent part, the report states that Subject 2 related that on the night of the incident she went to several bars and at XXX XXXXXXX XXXX, she ran into Subject 1. Subject 2 related that a verbal altercation ensued which resulted in the security guard intervening. Subject 2 related during her interview that when she left the bar she was followed out by Subject 1 where they continued to argue. Subject 2 stated in the interview, per the report, that Subject 1 then went into her dark blue Camaro and retrieved a pink semi-automatic handgun from the floor of the driver's seat. The report reads that Subject 1 then chambered the gun and fired a shot in the direction of Subject 2. It further reads that Subject 2 then called 911 as Subject 1 fled onto South Stony Island Avenue.⁹

The OEMC Event Query Report shows that on October 29, 2017 at 10:22 PM a caller named "Subject 2" called to report shots fired at XXXX South Stony Island Avenue. The caller reported the tag as XXXXXXXX and the suspect is reported as Subject 1 from Eggleston Avenue.

Several duplicate events are listed including one from a caller named Civilian 1 who reported he witnessed a female being assaulted at XXX XXXXXXX XXXX. Civilian 1 said the female suspect pulled a gun and fired a shot into the air and left the scene in a blue Camaro.¹⁰

The Tow Report shows that on November 6, 2017, Officer B, Star # XXXXX ordered a blue Camaro, tag XXXXXXXX, towed from XXXX South Eggleston Avenue. The narrative reports the vehicle was towed as it was used in the commission of an aggravated assault with a handgun.¹¹

VI. ANALYSIS

A. Department Members improperly towed and searched Subject 1's car.

Under the Department's General Order G07-03, an Officer requesting a vehicle tow must establish that the vehicle is needed pursuant to an "...investigation in connection with a crime and is needed for further investigation" either by requesting a vehicle check via the OEMC dispatcher or, if equipped, with a portable data terminal. The member must also follow the Special Order 07-

⁹ Att. #7

¹⁰ Att. # 8

¹¹ Att. # 9

03-06. This directive outlines the specific instances in which a vehicle may be seized without a search warrant. It is well established that the Fourth Amendment protects against unreasonable search and seizures. A police department may not avoid the constitutional requirements of probable cause by adopting a procedure to impound vehicles based only on a belief that the vehicle was involved in the commission of a crime and has evidentiary value. *See, e.g. Thompson v. Village of Monee*, 110 F.Supp.3d 826 (N.D. Ill. 2015). An Officer may seize a vehicle that is on a public way if that Officer has probable cause to believe the vehicle was used in the commission of an offense and therefore is itself contraband or contains contraband. *Thompson*, 100 F.Supp.3d at 842-843. Therefore, the seizure must be premised on statute. There are multiple statutes that allow for the seizure and forfeiture of a vehicle without a warrant, and these statutes form the basis of the Special Order 07-03-06 “Seizures and Forfeiture of Vehicles, Vessels, and Aircraft.”

Under Illinois law, 720 ILCS 5/36-1 addresses the specific offenses subjecting a vehicle to seizure and forfeiture. The statutes states that “any vehicle may be seized and impounded by the law enforcement agency if the vehicle...is used with the knowledge and consent of the owner in the commission of...an offense prohibited by...” specific enumerated offenses. *See* 720 ILCS 5/36-1(a).¹¹² One such offense is aggravated discharge of a firearm (720 ILCS 5/8-24-1.2). In this instance, Officer A stated that at the time, he was investigating an instance that he believed would result in felony charges against Subject 1. Specifically, Officer A stated that he was investigating the alleged aggravated discharge of a firearm. Because a “gun crime” was under investigation, Officer A believed the vehicle could be towed for “further investigation” because it was wanted in connection with a crime. Officer A believed that the offense he was investigating was a towable offense pursuant to Special Order 07-03-106. In addition, the victim of the crime, Subject 2, stated that Subject 1 reached into her vehicle and pulled a pink handgun from the vehicle and fired one or two shots. Subject 2 provided the make, model, and tag number of the vehicle shots were fired from. Because of this, it was reasonable to believe that the vehicle may have held ballistic or other evidentiary value to the investigation.

Based on the totality of the circumstances, the tow of Subject 1’s vehicle was objectively reasonable due to the existence of probable cause for its use in the commission of a crime and the allegation that Officer A and B, and Sergeant A improperly towed Subject 1’s vehicle is **exonerated**.

B. Department members improperly searched Subject 1’s vehicle:

Detective A, Sergeant A, and Officers B and A related that they did not search the vehicle. Detective A said the car was never searched because the officers did not have the keys or a search warrant. Officer A confirmed that after felony charges were declined by the State’s Attorney’s Office, he did not “feel the need” to seek a search warrant. However, Subject 1 alleged the officers searched her car and used a slim-Jim to open the door. There is no evidence to support this allegation. In the absence of any other evidence to support the allegation that Officer B, Officer A, and Sergeant A improperly searched Subject 1’s car is **not sustained**.

C. Sergeant A said, “bitch open the door” when knocking on Subject 1’s door.

¹¹² This statute forms a basis for vehicle seizure under SO 07-03-06.

Officer B and A both report that Sergeant A was not on the scene and therefore couldn't have knocked on the door and called Subject 1 a "bitch." Sergeant A reported he was not on the scene and never called Subject 1 a "bitch." Since Sergeant A was not on the scene, the allegation that Sergeant A said, "bitch open the door," while knocking on the door is **unfounded**.

VII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

	Allegation	Finding
Officer B		
1. Officer B improperly towed Subject 1's vehicle without justification.		Exonerated
2. Officer B improperly searched Subject 1's vehicle without justification.		Not Sustained
Officer A		
1. Officer A improperly towed Subject 1's vehicle without justification.		Exonerated
2. Officer A improperly searched Subject 1's vehicle without justification.		Not Sustained
Sergeant A		
1. Sergeant A improperly towed Subject 1's vehicle without justification.		Exonerated
2. Sergeant A improperly searched Subject 1's vehicle without justification.		Not Sustained
3. Sergeant A said, "bitch open the door" when knocking on Subject 1's door.		Unfounded

Approved:

Deputy Chief Administrator A

Date

Appendix A**Assigned Investigative Staff**

Squad#:	XX
Investigator:	Investigator A
Supervising Investigator:	Supervising Investigator A
Deputy Chief Administrator:	Deputy Chief Administrator A
